IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P. No.13824 of 2006
Date of Decision:20.11.2006

M/s Kissan Fruit Company, Fatehgarh Sahib
.....Petitioner

Vs.

The State of Punjab and others
.....Respondents

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Abhishek Arora, Advocate for the petitioner.

Mr. Samir Sachdeva, Advocate for respondent No.3.

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ADARSH KUMAR GOEL, J.

In this petition, challenge is to demand notice dated 24.4.2006 Annexure P.1 issued by Assistant Collector- II Grade, Bassi Pathana, District Fatehgarh Sahib for recovery of Rs.33,353/- as arrears of land revenue.

Learned counsel for the petitioner submits that no assessment order under the provisions of Punjab Agricultural Produce Markets Act, 1961 or Rural Development Fund Act, 1987 has been served on the petitioner and in absence thereof, recovery proceedings are not justified.

Mr. Sachdeva, appearing for the Market Committee submits that the payments were being recovered as per the admission of the petitioner itself and in such circumstances, no assessment order, as such, was passed.

It is well settled that before passing assessment order, recovery proceedings cannot be initiated. Reference may be made in this Court in C.W.P. No.6778 of 2006, titled as **M/s L.T.Overseas Limited, Bahalgarh, Sonepat vs. State of Haryana and others,** decided on 30.05.2006, wherein a Division Bench of this Court while referring to earlier judgments of this Court in **M/s Puri Oil Mills Ltd vs. Haryana State Agricultural Marketing Board, Panchkula** (1997-1) P.L.R. 226 and **United Riceland Limited vs. State of Haryana**, (2001-02) P.L.R. 459, held as under

"Following the dictum of law laid down by this Court, in the

cases referred to above, we quash notices Annexures P.9 and P.10 and direct respondent No.3 to proceed further against the petitioner in accordance with the provisions of the Act and the Rules under both the Acts. Respondent No.3 is at liberty to frame the assessment in accordance with law after affording due opportunity to the petitioner."

In view of the above, we quash the demand notice. We make it clear that it will be open to the appropriate authorities to proceed in accordance with law after passing appropriate order of assessment.

(ADARSH KUMAR GOEL)
JUDGE

November 20, 2006 **(RAJESH BINDAL)**
renu **JUDGE**